

### **REMARKS**

Applicants respectfully request reconsideration of this application.

Claims 1-17, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mansey et al.

#### **Premature Final Rejection**

Pursuant to 37 CFR 1.113, the rejection may be made final on a second or any subsequent examination or consideration by the examiner. Because the Office Action of May 4, 2004, is a first office action in a continuing application where the claims are not drawn to the same invention claimed in the earlier application, the final rejection is premature (MPEP 706.07(b), 706.07(c)). In the communication of February 23, 2004, the applicants filed a Request for Continuing Examination (RCE) accompanied by a request for suspension of action under 37 CFR 1.103(c), as is evidenced by the appropriate box checked in the Transmittal as is evident from the attached documents. Subsequently to filing a Request for Continuing Examination (RCE) accompanied by a request for suspension of action, and within the period of suspended action, on May 18, 2004, the Applicants filed a preliminary amendment as is evident from the attached documents. Thus, because the claims in the continuing application are not drawn to the same invention claimed in the earlier application, and the Office Action of May 4, 2004 is a first office action, the final rejection is premature. Accordingly, the applicants respectfully request that the Examiner withdraw the finality of the Office Action and consider the preliminary amendment filed on May 18, 2004.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Elena B. Dreszer at (408) 947-8200 ext. 209.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 6-29-04



Elena B. Dreszer  
Reg. No. 55,128

12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1026  
(408) 947-8200